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C O N F I D E N T I A L PANAMA 000550

SIPDIS

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TAGS: [ECON](#) [EINV](#) [ETRD](#) [MARR](#) [PM](#) [EWWT](#) [PREL](#)
SUBJECT: IN BARGAIN BASEMENT BID, SPANISH TO EXPAND PANAMA
CANAL

REF: A. 2007 PANAMA 1899

[1](#)B. 2008 PANAMA 320
[1](#)C. 2008 PANAMA 732
[1](#)D. 2008 PANAMA 820
[1](#)E. 2008 PANAMA 851
[1](#)F. 2009 PANAMA 195
[1](#)G. 2009 PANAMA 519
[1](#)H. 2009 STATE 69224
[1](#)I. 2009 PANAMA 539

Classified By: Ambassador Stephenson for reasons 1.4 (b) and (d).

SUMMARY

[1](#)1. (C) During a morning of high political theater, President Martinelli, Panama's senior government officials, consortia representatives, diplomatic corps, and the public (through live TV and an internet broadcast) witnessed the presentation of the technical scores and the opening of the financial bids on July 8. After brief real-time calculations, the Panama Canal Authority (ACP) announced that Sacyr's consortium won the bid to build the third set of locks, centerpiece of the \$5.25 billion Panama Canal Expansion. Bechtel believes Sacyr broke EU anti-competitiveness laws in obtaining its surety bonds and will protest if they find a smoking gun. The Sacyr win signals expanding Spanish influence in Panama and a potential loss of American export opportunities for the project (although much of the sourcing has not yet been determined).

SACYR WINS

[1](#)2. (U) President Martinelli, Panama's senior government and ACP officials, consortia representatives, diplomatic corps members, and the public (through live TV and an internet broadcast) witnessed the awarding of the locks contract, the centerpiece of the \$5.25 billion Panama Canal Expansion, to a consortium led by Sacyr Vallehermoso S.A.. The other consortia members are Impregilo S.P.A. (Italian), Jan de Nul N.V. (Belgian), Constructora Urbana, S.A. (Panamanian and run by the first cousin of the Panama Canal Administrator), Montgomery Watson Harza (American), IV-Groep (Dutch), Tetra

Tech (American), and Heerema Fabrication Group (Dutch).

PROCESS FOR DETERMINING SACYR WON

13. (C) The ACP declared Sacyr to have the "best value" proposal. Out of a possible 10,000 points, Sacyr obtained a dominating 8089 points; Bechtel - 6770 points; and ACS - 6559 points. The total point tally was composed from technical and financial scores. Sacyr had the highest technical score with 4089 points (out of a possible 5500), ACS - 3974 points, and Bechtel - 3790 points. The technical points ranking was "shocking" to a representative of CH2MHill (an American-firm), the Project Advisor for the expansion program. Previously, sources rated Bechtel's and ACS's technical plans to be about equal and both superior to Sacyr's. See ref G. The pre-announcement conventional wisdom on the technical plans was so prevalent that the audience collectively gasped when the Sacyr high technical score was announced. During a post-announcement meeting with the Ambassador, the subdued Bechtel reps speculated that the technical scoring committee was probably not comfortable with Bechtel's "innovative" design, because it did not fit neatly into the ACP's specifications. Bechtel reps dismissed challenging the technical evaluation process, noting from past experience that these technical evaluations can be highly subjective.

14. (C) After the award ceremony started, ACP and consortia officials retrieved the price envelopes from a nearby bank vault. The audience watched via streaming video projected on

to giant screens, the OJ Simpson-esque drive to/from the bank and the "signing out" of the deposit box with the envelopes. The base price proposals were \$3.1 billion for Sacyr, \$4.2 billion for Bechtel, and \$6.0 for ACS, which led to financial point scores of 4000, 2980, and 2586, respectively. (The provisional prices were \$103 million, \$94 million, and \$0, respectively.) The Sacyr base price elicited a cheer from the audience; many Panamanians are pleased that the locks may be built for less money than expected. Sacyr supporters cheered, because their victory was almost assured with the best technical score and lowest price.

15. (C) The spread on the bid prices is surprising. Sacyr was expected to be the low ball bid (due to its precarious financial situation and apparent financial backstop from the Spanish government), but both Bechtel and ACS reps had hinted to Embassy officials that their bids were just over \$4 billion. See ref G. However, the base price proposals lined up with the three bidding strategies outlined in ref D - lowball, value, or punt. The fact that ACS's \$6 billion bid was almost double of Sacyr's was not expected and is interpreted by some as a punt. Bechtel reps state a consortium cannot even "pour the concrete" for \$3.1 billion and hinted even their \$4.2 billion price was closer to a lowball bid than a value bid. It is widely expected that during construction, Sacyr will attempt to renegotiate the price with the ACP.

16. (C) After the ACP declared Sacyr the "best value" winner, the ACP opened the sealed envelope with the price ceiling (la partida asignada) for the contract. Sacyr offered a base price below the ACP's \$3.5 billion ceiling; as a result, further negotiation on price between the ACP and Sacyr is not needed. See ref G.

NEXT STEPS IN THE AWARD PROCESS

17. (C) The ACP Price Verification Board will now verify that the process complies with ACP requirements and the ACP Contracting Officer will proceed to verify the contractor's qualifications. Both these steps should be pro forma, and the ACP expects to officially award the contract in a few business days. Upon announcement of the award, the ACP will

notify all consortia members and allow the evaluation documents to be examined by all consortia. The winning consortium must renew its surety bonds within twenty-eight days. The losing consortia have three days to protest, once the five day notification period expires. The ACP Procurement Division must then adjudicate a protest within thirty days. Whether or not the losing consortia agree with the ACP decision, the ACP will proceed to sign the contract with Sacyr. Without defining "work," the ACP requires Sacyr to begin work seven days after the contract signing.

BECHTEL PROTEST?

18. (C) Bechtel reps informed the Ambassador that at this time they only plan to protest the award if they can prove that Sacyr's \$400 million performance and \$50 million payment bonds (that must now be renewed from Zurich) are counter-guaranteed by a European government and undisclosed. If the bonds are counter-guaranteed, then Bechtel reps believe Sacyr and the backing European government(s) (probably Spain) broke European Union anti-competitiveness laws by not having this state aid declared. If true and if the potential remedy is significant, Bechtel might pursue the matter in court. However, counter-guaranteed surety bonds are not against the ACP bid rules. See ref H for background on this issue. However, we can not rule out some other type of Spanish government guarantee was provided to Sacyr (outside of the specific action of guaranteeing surety bonds) that would enable Sacyr access to the credit necessary to complete the project, preserve Spanish jobs, and prevent a rumored shock to Spanish banking system that could ensue from a collapse of Sacyr.

19. (C) Bechtel reps were not alarmed over past press leaks from Impregilo of the Sacyr consortium forecasting Sacyr's highest technical score and lowest price. They believe the leaks likely did not reflect undue access to inside information or skullduggery by the ACP. See ref G. Rather, the Bechtel rep opined, it was far more likely that Impregilo was engaging in puffery on the outcome in order to secure vital new credit.

PANAMANIAN REACTION

10. (C) Overall, the ACP, President Martinelli, and the Panamanian public are clearly ecstatic about receiving a prima facie bargain basement price and that a Panamanian company (CUSA) is part of the Sacyr consortium. However, we understand there may be lingering doubts by some ACP Board Members and members of the government that the Sacyr consortium does not have financial ability to complete the project. Bechtel reported they had been called to a surprise meeting with VP/FM Juan Carlos Varela, who was clearly concerned about the big price spread and suggested the cabinet needed to ask ACP Administrator Aleman to provide an explanation.

CANAL EXPANSION OVERVIEW

11. (C) The Panamanian people approved the overall Panama Canal Expansion project on October 22, 2006 in a National Referendum and the ACP broke ground on the first related excavation project on September 3, 2007. The expansion consists of three major components: construction of the locks, widening and deepening of the navigational channels, and deepening Lake Gatun. Of the various major contracts to complete the expansion, there is now only one left - the estimated \$400 million PAC 4 excavation that includes the building of a dam. The ACP hopes to complete the expansion in 2014 for the 100th anniversary of the opening of the Panama Canal. Whether the expansion is completed on-time and

on-budget may impact the 2014 Panamanian Presidential and National Assembly elections.

COMMENT

¶12. (C) U.S. ECONOMIC IMPACT: Bechtel was expected to purchase \$1.2 to \$1.3 billion dollars worth of goods from U.S. suppliers. Sacyr has not provided post with their expected U.S. purchases; however, due to Sacyr's close relationship with European suppliers, the amount of U.S. exports could be substantially affected. American companies Montgomery Watson Harza (MWH) and Tetra Tech are minor partners in Sacyr's consortium; MWH and Tetra Tech have not requested commercial advocacy.

¶13. (C) LONG TERM: For over a hundred years, the Panama Canal remained at the core of the United States/Panamanian relationship. Two-thirds of all ships transiting the canal are traveling to/from a U.S. port and we retain a fundamental interest in the successful completion of the expansion project. However, the Sacyr win marks an increased tide of Spanish influence in Panama and - for now - injects an element of uncertainty in to the future of the canal expansion. What is undisputed, is the pride of Panamanian officials in moving this project forward under their sovereignty. See ref I.
STEPHENSON